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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,764	06/01/2001	Monica Carlise Fontenot	12164	2999

23556 7590 09/08/2004

KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER

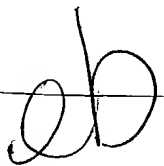
JASTRZAB, KRISANNE MARIE

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/871,764	Applicant(s) FONTENOT ET AL.	
	Examiner Krisanne Jastrzab	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 18-28 is/are rejected.
- 7) ☒ Claim(s) 12-17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/5, 11/20</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

Claim 20 is objected to because of the following informalities: "wherein the liquid" is recited twice. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-6 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Korpman U.S. patent No. 5,885,681.

Korpman teaches a liner which absorbs liquids and is treated with an odor controlling material. The liner has a liquid impervious backing, preferably formed of a polyethylene film (column 9, lines 39-41), an absorbent layer including fiberized wood pulp and synthetic fibers (column 9, lines 1-25), and a liquid permeable facing (column 9, lines 27-35). The odor control agents are preferably baking soda and activated charcoal (column 10, lines 21-26), and an antioxidant can be incorporated into the liner as well (column 7, lines 65-68). It is held that the liner of Korpman is fully capable of being used as a liner for absorbing liquid spills in a container, drawer or on a shelf.

Claims 1-2, 4-6, 11 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Yeo et al., U.S. patent No. 5,122,407.

Art Unit: 1744

Yeo et al., teach a liner which absorbs liquid and is treated with an odor controlling material. The odor controlling material is preferably sodium bicarbonate or zeolites (column 6, lines 15-28) among others and the absorbent can include cellulose, wood fluff, coform materials and meltblown materials (column 6, lines 40-42). The absorbent material is contained between a liquid pervious cover layer and a liquid impervious baffle backing. See column 8, lines 20-68, column 9, lines 44-51 and the claims. It is held that the liner of Yeo et al., is fully capable of being used as a liner for absorbing liquid spills in a container, drawer, or on a shelf.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

Art Unit: 1744

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-11 and 18-28 are rejected under 35 U.S.C. 103(a) as being obvious over either of Woltman et al., U.S. patent No. 6,433,243 or Quincy, III et al., U.S. patent No. 6,509,284, in view of Foss et al., U.S. patent No. 6,723,428.

The applied references to Quincy, III et al., and Woltman et al., have a common assignment with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at

Art Unit: 1744

the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Both Quincy, III et al., and Woltman et al., teach a water permeable layer for use in applications requiring the absorbance of liquids, wherein the layer is treated to be wettable and with an odor controlling material. The material acts as a cover for, or incorporates an absorbent which can be made from a coform material. While the references are directed to an art area where the provision of a liquid impervious backing layer is well known, they are both silent as to the presence of such a layer. Use of the material above is cited as including absorbent drapes and medical wipes. See column 1, lines 50-67, column 2, lines 56-68, column 4, lines 35-40, column 6, lines 40-62, column 7, lines 15-68, column 10, lines 23-53 and the claims of '243 as indicative of that taught in both references.

Foss et al., teaches the known and expected provision of a liquid impermeable backing layer in a multilayered absorbent construction for minimizing the escape of liquids being actively absorbed by the structure. Foss et al., further teach the use of such liners in a variety of applications including refrigerator trays and microwave liners (see column 17, lines 45-50). Foss et al., teaches that zeolites can be included to enhance odor absorption (column 17, lines 40-45), as well as other additives such as antimicrobials or antifungals (column 22, lines 49-53). Further, Foss et al., teaches that multiple layers can be used to increase the overall strength of the liner (column 45, lines 32-40).

Art Unit: 1744

It would have been well within the purview of one of ordinary skill in the art to utilize an impervious backing layer as taught in Foss et al., in the liners of either Quincy, III et al., or Woltman et al., because of the known and expected provision of effectively containing those liquids sought to be absorbed. It would further have been obvious to apply such liners in any application requiring effective liquid absorption, including refrigerators and microwaves as taught in Foss et al.

Allowable Subject Matter

Claims 12-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the closest prior art of record fails to teach or suggest the specific, claimed weight percentages recited in claims 12-15.

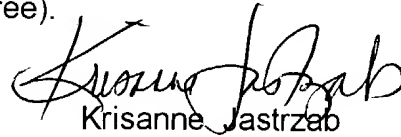
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne Jastrzab whose telephone number is 571-272-1279. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Krisanne Jastrzeb
Primary Examiner
Art Unit 1744

September 7, 2004